



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201105046

NOV 08 2010

Uniform Issue Code: 408.03-00

SETTLEMENT PARTY

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XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A	=	XXXXXXXXXXXXXXXXXXXX
IRA X	=	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX
Roth IRA Y	=	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX
IRA Z	=	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX
Account F	=	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX
Amount C	=	XXXXXXXXXXXXXXXXXXXX
Amount E	=	XXXXXXXXXXXXXXXXXXXX
Amount G	=	XXXXXXXXXXXXXXXXXXXX
Financial Institution J	=	XXXXXXXXXXXXXXXXXXXX
Bank W	=	XXXXXXXXXXXXXXXXXXXX
Date 1	=	XXXXXXXXXXXXXXXXXXXX
Date 2	=	XXXXXXXXXXXXXXXXXXXX

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Dear XXXXXXXXX:

This is in response to your ruling request dated July 24, 2009, as supplemented by correspondence dated March 13, 2010, September 6, 2010, and September 14, 2010, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code") with respect to a distribution from IRA X.

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age , represents that on Date 1, she received a distribution totaling Amount C from IRA X maintained by Bank W. Taxpayer A asserts that her failure to accomplish a rollover of Amount E and Amount G, a portion of Amount C within the 60-day period prescribed by section 408(d)(3) of the Code was due to a medical condition which impaired her ability to accomplish a timely rollover. Taxpayer A further represents that Amount E and Amount G have not been used for any other purpose.

Taxpayer A represents that she was the owner of IRA X, an individual retirement arrangement ("IRA"), established and maintained at Bank W. IRA X matured on Date 1. Taxpayer A asserts that she wanted to move IRA X into a money market account which had better interest rates. Taxpayer A represents that she intended to transfer Amount C into an IRA account within the 60-day rollover period but was mistakenly told that a money market account was not a permitted IRA investment. Therefore, on Date 1, she temporarily transferred Amount C to Account F, a non-IRA account, at Financial Institution J intending to rollover the funds into an IRA. Thereafter, on Date 2, a date after the expiration of the 60-day rollover period, Taxpayer A transferred Amount E into Roth IRA Y and Amount G into traditional IRA Z at Bank W. Taxpayer A represents that prior to the distribution and continuing thereafter, she has suffered from a severe medical condition which affected her ability to accomplish a timely rollover. Documentation shows that her medical condition led to her confusion regarding her financial affairs.

Based on the facts and representations, a ruling is requested that the Internal Revenue Service waive the 60-day rollover requirement with respect to the distribution of Amount E and Amount G from IRA X.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

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Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the account is maintained if:

- 1) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution; or
- 2) the entire amount received (including money and other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the one-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(i) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(i) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(i) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and, (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted on behalf of Taxpayer A, is consistent with her assertion that her failure to accomplish a timely rollover within the

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60-day rollover period prescribed by section 408(d)(3) of the Code was due to a medical condition which impaired her ability to make a timely rollover.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount E and Amount G from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met, the contribution of Amount E to Roth IRA Y will be considered a qualified rollover contribution within the meaning of section 408A(e)(1) of the Code and the contribution of Amount G to IRA Z will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of any amounts that are required to be distributed by section 401(a)(9) of the Code.

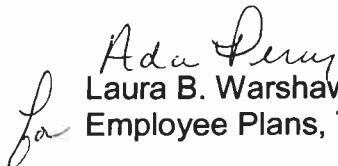
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This ruling is directed solely to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

A copy of this ruling is being sent to your authorized representative in accordance with a power of attorney on file with this office.

If you wish to inquire about this ruling, please contact XXXXXXXXX, ID Number XXXXXXXX at (XXX) XXX-XXXX. Please address all correspondence to

Sincerely yours,


Laura B. Warshawsky, Manager,
Employee Plans, Technical Group 4

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose